

THE CANON LAW COLLECTION
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Title page from a 1615 edition of the *Corpus iuris canonici*. Canon Law Collection, Law Library.

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A General Bibliography with Selective Annotations

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FOREWORD

SINCE 1832, when an act of Congress directed the Librarian of Congress to remove law books from the main collection, install them in a separate "apartment," and maintain a law library, legal materials from the United States and abroad have found a repository in the Law Library of the Library of Congress. The law collections now housed in the Law Library are unequalled in breadth or depth by those of any other institution. Approaching two million volumes, the holdings of the Law Library encompass all geographic areas and historical periods. These legal publications and the specialized staff who service them combine to give the Law Library its unique standing as a center for scholars pursuing research in American, foreign, and comparative law.

While the bulk of the law collections represent modern national legal systems, there are several special collections which are distinguished by their historical value, rarity, or topicality. One such special collection contains approximately twenty-eight hundred volumes of canon law, constituting a magnificent assemblage of treatises written by the most renowned canonists over the last seven centuries and other documents of invaluable worth and historical significance. The strongest elements of the collection are the works of important Church figures of the seventeenth and eighteenth centuries and manuscripts and early editions of the sources of ecclesiastical law of the Roman Catholic Church. Approximately half of the collection is in Latin, with the remainder written in eleven other languages, including English.

The present bibliography renders an important service to the scholarly community by revealing the presence in the Library of Congress of this extraordinary but little known treasure. This bibliography, which lists the rich canon law holdings in the Library of Congress and classifies them according to subject, has a dual purpose: to provide researchers of canon law with a simple, comprehensive, and functional reference book; and to assist legal historians, writers, and students interested in following the course of canon law research.

The importance of law is multifaceted. It contains the regulations and standards which support the work of the Church (in this case, the Roman Catholic Church, since almost 98 percent of the collection belongs to this Church's legislation), a worldwide and international society. In addition to the historical significance and the international scope of its legislation, the importance of the Roman Catholic law also derives from practical considerations. In the United States almost one-quarter of the population are members of the Catholic Church and therefore subject to canon law. Furthermore, current controversies surrounding the indissolubility of the bond of marriage, divorce, contraceptive practices, abortion, and the many changes in the life of the religious person, just to name a few, are directly related to this discipline. It is consequently apparent that a comprehensive bibliography will be both useful and necessary.

But the contribution of canon law goes beyond the immediate and the practical; it is present in the very heart of the western legal tradition. In fact, it was Gratian's work, *Concordance of Discordant Canons*, the first systematic legal treatise written in the West (ca. 1140), together with the ideal concept of *corpus juris* (body of law), which initiated the great change from customary law to legal systems in the western world. As the relationship between Church and state

experienced profound changes, a considerable portion of the medieval canon law become secularized and was accepted into the provisions of civil law.

The development, maintenance, and circulation of the canon law collection has been entrusted to Darío C. Ferreira-Ibarra, compiler of this index and legal researcher with the Hispanic Law Division since 1975. Dr. Ferreira-Ibarra, who is also responsible for the development and servicing of the Roman law collection, received his education in Argentina, Italy, and the United States. In addition to advanced degrees in philosophy, education, and canon law, he holds a Ph.D. in theology and ethics. His teaching credentials include professorships at the School of Philosophy and Education of the Catholic University of Asunción, Paraguay, the School of Accounting and Administrative Sciences of the National University of Paraguay, and the School of Philosophy and Education of the Catholic University of Puerto Rico.

CARLETON V. KENYON,
Law Librarian

PREFACE

THE ORGANIZATIONAL SCHEME of this bibliography was selected for practical reasons and to elucidate the overall subject because canon law is generally not as well known as other legal systems. The first three sections of the bibliography cover: three early editions of the Code of Canon Law, valuable holdings in the Law Library; the code's historical foundations, which list many important editions of the code, and other basic documents of the early Roman Catholic Church; and the *Decisiones* of the Roman Rota, or the Church's jurisprudence. The remaining sections of this bibliography correspond exactly to the divisions of the Code of Canon Law and cover such subjects as persons, things, procedural law, and crimes and penalties.

Some annotations have been provided to highlight work considered historically significant or relevant to current social problems. The entries are arranged alphabetically according to the author within the various topical divisions and subdivisions. When necessary, a title or collective term is used as a main heading. Books in foreign languages are also entered in the same manner.

An appendix has been included to accommodate publications recently acquired by the Library of Congress and to update the bibliography through mid-1979. The appendix also contains entries which complete the collection of writings by famous canonists who already appear in the body of the work. Specifically, the prolific contributions of Agostinho Barbosa (1590-1649), the Portuguese canonist, and Giovanni B. de Luca (1614-1683), an Italian who became a lawyer at the age of twenty-one and later a cardinal under Innocent XI, are emphasized.

Comprehensive author and subject indexes appear at the end of the bibliography. In the subject index, many topics are enumerated which were not specifically classified in the body of the work.

INTRODUCTION

FEW PEOPLE are familiar with the legislation of the Roman Catholic Church. To gain a good understanding of its law today would require a journey back in time to consider the successive turning points in the centuries long history of the Church's legislation. The law as a living reality would then become clear. This work cannot cover such an extensive program, nor is it intended to do so. Nevertheless, to be able to comprehend the bibliography's arrangement and the importance of the works by the most influential canonists, the reader may find the following brief description of the Church and its legislation very appropriate.

The first significant factor to consider is that all power in the Church comes from above; this society, organized as an institution and universal in extent, is therefore not a democracy. Its constitution rests on the monarchical pattern. This fact gives canon law a special character: it is, at the same time, a sacred science and a juristic science.

The questions that naturally arise are then: who is the authority behind the law, and what are the instrumental sources of the law? The answer to the first question is that the *fontes essendi* or *existendi*, the productive sources of the law for the universal Church, are the pope, the ecumenical councils (if the deliberations are confirmed and promulgated by the pope), and the Roman congregations. The answer to the second question is that the *fontes cognoscendi* include divine-positive law and human-positive law, i.e., the Bible and tradition, and the collection of documents containing the legal provisions enacted by the legislative authority of the Church. The pope enacts all universal laws in person (in his apostolic constitutions, or in his *motu proprio*, depending on the importance of the documents), or through the Roman congregations (acting in his name), or the ecumenical councils (when he ratifies the provisions). Since the beginning of this century, the promulgation of laws has been effected in the manner introduced by Pius X on September 29, 1908, and later confirmed by the Code of Canon Law in 1917, i.e., by their publication in the official *Acta Apostolicae Sedis*.

In considering the written documents of the law, modern canonists divide canon law into three main periods. The first begins in the time of the apostles and ends with the Council of Trent (1545–1563), the second ends with Vatican II (1962–1965), and the third is the present time, i.e., since this council. Traditionally, however, the periods were divided into *jus antiquum*, *jus novum*, and *jus novissimum*. The first extends from the early years of the Church until Gratian (mid-twelfth century) whose monumental work is a landmark in the history of canon law; the second, from Gratian until the Council of Trent; and the third, from Trent to the codification of 1917.

Until the time of Gratian, canon law was considered a part of theology (*theologia practica externa*) and not a separate discipline. Gratian, a Camaldolese monk who died in A.D. 1160, committed himself to the task of reducing to some sort of order the mass of laws through coordination and synthesis. The title he chose for his work was *Concordia Discordantium Canonum* (*Concordance of Discordant Canons*). This meritorious work eliminated, whenever possible, the contradictions existing between the various texts and coordinated them into one complete system. Later his compilation became known as *Decretum Magistri Gratiani*, or

more simply *Decretum Gratiani*. While enjoying great prestige, the *Decretum* did not have official character; nevertheless, the popes of the sixteenth century promoted a revision and the publication of an official edition. This task was approved by Gregory XIII in two constitutions (1580 and 1582), and since then subsequent editions have been made in accordance with the official revised text.

After the publication of the *Decretum*, many collections followed, some of which were approved and authenticated. The most important during this period, because of their authority and completeness, were the *Quinque Compilationes Antiquae*, the third and the fifth of which were considered official because they were compiled at the request of two popes. New needs for a collection that would include all the laws enacted until that time were satisfied by Gregory IX; this collection became known as *Sexta*, to distinguish it from the *Quinque Compilationes*, or *Liber Extra* because it contained the decretals *Extra Decretum Vagantes*. A more complete work was approved and published by Boniface VIII, then added to the five books of Gregory IX. It became known as *Liber Sextus* (March 3, 1298).

Following the tradition set by his predecessors, Clement V ordered a new collection to complete the previous compilations; although it was approved and published in 1314, it was not sent to the universities during his lifetime. Only after his death did John XXII, his successor, dispatch it and call it *Liber Septimus*. Later it became known as the *Clementinae Constitutiones*. With the collection of Clement V, the *Corpus Juris Canonici*, as it was called in 1437 by the Council of Basilea, was considered closed. This *Corpus* was made up of the *Decretum Gratiani*, the *Liber Extra*, the *Liber Sextus*, and the *Liber Septimus*.

The *Corpus* was expanded by two collections published in 1500 by John Chappuis, a canonist from Paris. The *Extravagantes*, as his work is known, contain the *Extravagantes Joannis XXII* and the *Extravagantes Communes*, i.e., constitutions and decretals of John XXII and of several popes, from Boniface VIII (d. 1303) to Sixtus IV (d. 1484). Any person interested in the study of canon law must consider the *Corpus Juris Canonici* as the most fundamental and essential source. The Library of Congress holds many editions of the *Corpus*, separate editions of the *Decretum Gratiani*, as well as two editions of the *Extravagantes*.

Equally important in the development of canon law is the Council of Trent (1545–1563). Pius IV promulgated on January 26, 1564, by the Constitution *Benedictus Deus*, the disciplinary laws enacted by this Council; this compilation became the most important source of canonical legislation until the promulgation of the code.

The profusion of canonical legislation as well as the difficulty in consulting and enforcing it led to a necessary revision and reorganization of the existing materials. After twelve years of work, Benedict XV solemnly promulgated on May 27, 1917, in his Constitution *Providentissima Mater Ecclesia*, the *Codex Juris Canonici* to become effective for the universal Church on May 19, 1918, the Pentecost of the following year. The code contains 2,414 canons and is divided into five books related to general provisions, persons, things, trials and hearings, and offenses and their punishments. This codex is placed above any previous collection for it is an authentic, public, and legal collection of laws having all the force of exclusive, unitary, and universal law, in that it has been approved and promulgated by the supreme authority of the Church.

With the *motu proprio*, *Cum Juris*, of September 15, 1917, Benedict XV created a Pontifical Commission (*consilium*) for the authentic interpretation of

the code. The *responsa* (answers) of this commission were published in the official gazette *Acta Apostolicae Sedis* because, like the provisions of the code, they have legislative authority and value.

In recent years the Church experienced a monumental turning point, the Second Vatican Council. Immediately after it ended, Paul VI created, among other things, a special commission to interpret the decrees of the Church. This commission is known as the *Commissio Centralis coordinandis post Concilium laboribus et Concilii Decretis interpretandis*. Until this commission publishes a new revised edition of the code, the most important and current canonical laws are to be found in the *Acta Apostolicae Sedis*.

The compiler is grateful to Kathryn J. Dahlberg and Sandra A. Sawicki, of the Hispanic Law Division, who spent many hours transforming thousands of index cards into a readable manuscript, and to Miss Sawicki, in particular, for refining the manuscript and offering many suggestions regarding bibliographic format which were adopted. Their assistance was invaluable to this publication's development.

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CODE OF CANON LAW

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Pius X in his *motu proprio* of March 19, 1904, entitled *Arduum sane*, expressed his desire to collect in a code the laws of the Church which "had so increased in number and were so separated and scattered, that many of them were unknown not only to the people, but to the most learned scholars as well." A commission of cardinals, led by Pietro Gasparri who later became a cardinal himself, prepared the code which was promulgated on May 27, 1917, by the constitution *Providentissima Mater Ecclesia* of Benedict XV (1914-1922) and became effective a year later.

The code contains 2,414 canons, or standard units of subdivision, and is divided into five books: general provisions, persons, things, trials and hearings, and offenses and their punishments. The code is preceded by several writings and documents: an illuminating preface, written by Pietro Cardinal Gasparri, which synthesizes the history of

the Church's law; the above mentioned constitution of Benedict XV; *Cum iuris canonici*, a *motu proprio* of the same pontiff providing for the creation of a commission for the authentic interpretation of the canons; and the profession of faith. The code ends with eight documents or constitutions by different popes, from Gregory XIII (January 25, 1585) to Pius X (December 25, 1904), and a very useful analytico-alphabetical index as a final section.

2

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falso Iannis vigesimisecondi vita inscribatur, a apposita noua & verrissima ex clarissimis scriptoribus Sabellico, Nauclero, Platina, Volaterrano, Aemilio, Ritio, Egnatio compilata, sententijs Iurisperitorum rerumqz memorabilium varietate plena. Lvgdvni, a Porta, 1550. 207, [7] p.

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The *Corpus* is one of the most essential canon law sources before May 27, 1917, when Pope Benedict XV solemnly promulgated the Code of Canon Law. In 1437 the Council of Basilea considered completed what is now known as the *Corpus Iuris Canonici* which includes the Decree of Gratian, the Decretals of Gregory IX (also called the *Liber Extra*), the Decretals of Boniface VIII (or *Liber Sextus*), and the *Clementinae Constitutiones* (or *Liber Septimus*), approved by Pope John XXII in October 25, 1317.

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This work, in two volumes divided into fifty-two titles, contains the statutes, constitutions, canons, rubrics, and articles of the Church of England, with historical and legal commentary. The state of the power, discipline, and laws of the Church at the time of the publication is discussed in the introduction. At the end of the digest an appendix is provided on ancient and modern instruments. This work is intended for use by the clergy to differentiate clearly the laws of the Church from the statutes and other pieces of legislation. The work clarifies that the Church of England, as a national church, has the same common head as the State, but as a spiritual society, it is of a different nature and governed by other laws.

31

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sive when coupled with their corresponding *quaestiones* and constitute nearly 70 percent of the total *Decretum*. This division concerned the various problems of the Church jurisdiction, offenses, and legal proceedings; the third part, *De Consecratione*, deals exclusively with the sacraments of the Church and is divided into five *distinctiones*. Gratian particularly emphasized consecration of churches, the Holy Eucharist, feast days, Baptism, and Confirmation.

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Gratianus, the canonist. Decretum. [Strassburg] Eggstein, 1472. [460] 1.

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40

Gratianus, the canonist. Decretum. Basel (Basilea), Wenssler, 5 Sept. 1482. [381] 1.

Incipit concordia discordantium. With the commentary of Bartolomeo da Brescia.

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43

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With the commentary of Bartolomeo da Brescia.

44

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With the commentary of Bartolomeo da Brescia.

45

Gratianus, the canonist. Decretum. Venice, [Torresanus, de Asula] 26 June 1498. [636] 1.

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Gratianus, the canonist. *Decretum Gratiani. Glossis dñi Ioannis Theutonici prepositi alberstatensis: et annotationibus Bartholomei Brixiensis. Diuisionibus Archidiaconi. Casibus a Bene. cōpositis per Bart. Brixi. Correctis et pro clariore intellectu pluribus in locis extensis. Concordia ad biblia. Tabula marginalium glossularum. Omniū canonū et conciliorum. Margarita decreti. Flodculus totius decreti a Joanne Diacono compositis. Additione in margine litterarum. [Venetijs, 1514] 652 p.*

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Includes bibliographical references.

The main concern of the author is to answer this question: Why do modern canonists who deal with the reality of the layman neglect to provide references concerning the doctrine of the previous centuries? At the outset it seems of little use to deal with such doctrine; it appears that the almost complete silence of the Code of Canon Law on the legal condition of the layman, in the canons explicitly devoted to him, is a reflection and consequence of the doctrine which was in effect immediately preceding the code. Unfortunately, the code does not reflect the reality of time; for in the nineteenth century and the years immediately before 1917, the date of the code's promulgation, the layman enjoyed a much broader and more positive legal position in the Church than that actually expressed in the code. The author aims to discover the cause of the imbalance between the ideas of the doctrine and the formulations of the code.

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The doctrine of the Second Vatican Council, which gave greater impulse to the movement of renewal in the life of the laity, has been the subject of much theological research; but there has been little focus on the notion of duties and rights of laymen as presented in the documents of the council, namely in the constitution *Lumen gentium* and the decree *Apostolicam actuositatem*. The author exposes the legal elements which are present in the studied documents, concerning the new understanding of the constitution of the Church as People of God; the typological description of laymen; and the rights and obligations peculiar to them. The work also offers a vision of the present status of canonical doctrine on the subject, pursuant to the new ecclesiastical stance assumed by the council.

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Gómez de Ayala, Alfredo. *Gli infedeli e la personalità nell'ordinamento canonico. Milano*, Giuffrè, 1971. 1 v. (Collana degli Annali della Facoltà di giurisprudenza dell'Università di Genova, 24)

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González del Valle Cienfuegos, José M. *Derechos fundamentales y derechos públicos subjetivos en la Iglesia. [Pamplona]* Eunsa, 1971. 305 p.

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The author determines as clearly as possible the concepts of "fundamental right" and "subjective

public right" by establishing a proper distinction between them and other related concepts, and stresses the importance of incorporating these concepts into the canonical system. Only after the Second Vatican Council did the expression "fundamental rights of the faithful" appear, and only after the promulgation of the constitution *Regimini ecclesiae universae*, which introduces in the Church the appeal to the courts against acts of Church government, did "subjective public rights" come into force. These changes reflect a new ecclesiological perspective and are not just changes in terminology or concepts. The work is divided into four parts: canonical doctrine on the subject, secular doctrine, fundamental rights pursuant to the secular doctrine, and conclusions.

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In this treatise on marriage, the author, who presided over the commission of cardinals for the preparation of the present Code of Canon Law and who was also appointed president of the commission for the Code of Oriental Canon Law, presents an updated version of his teachings on marriage, given while a professor at the *Institut Catholique de Paris*. It is intended for pastors, con-

fessors, and bishops, primarily. Aside from its thorough canonical analysis of marriage, the work is also of great interest because it is preceded by a letter from the then State Secretary of the Vatican, Cardinal Pacelli, the future Pope Pius XII, and another from Pope Leo XIII, praising the method, depth, and faith of the author. Gasparri explains that many elements complicate ecclesiastical matrimonial legislation: the abundance of legislated material; the combination of ecclesiastical positive law with divine law, be it natural or positive, and with civil law. It deals with general notions; premarital conditions; impediments to marriage; consent in marriage; form, place, and time of marriage celebration; divorce; and nullity of marriage.

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marriage. This monograph explains the place of consent in canonical matrimonial regulation, the relationship between contract and sacrament, marriage as a consensual contract, and other aspects of marriage. In addition, the book offers a profound and extensive study on the lack of consent in its many manifestations and vitiated consent, as well as a shorter analysis of the essence of marriage, with special reference to the doctrine of Vatican II.

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in *Codex juris canonici*. Paderborn, Schöningh, 1936. 119 p. (Görres-gesellschaft zur pflege der wissenschaft im katholischen Deutschland. Veröffentlichungen der Sektion für rechts- und staatswissenschaft . . . 71. hft.)

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The intention of the author is already apparent from the rather long title of his work, which in translation is: "The jurisdiction of the sovereign pontiff concerning the infidels. Does the Petrine privilege extend to the marriage of nonbaptized, especially those of catechumens?" According to the so-called *privilegium Petrinum*, the pope, after pondering the circumstance, can dissolve a first marriage contracted between an infidel spouse and a party baptized in a non-Catholic sect *in favorem fidei* (in favor of faith) by virtue of the apostolic authority, eventually validating a second marriage of the converted party with another Catholic or non-Catholic person. The author had in mind two compelling questions facing missionaries throughout the world: Can the Church accept candidates to baptism, regardless of their previous matrimonial situation, and subject them to a catechumenate, or preparation, of some duration? And in a more pluralistic society, is there a solution for a Catholic deeply involved with a nonbaptized party, who was previously married to another infidel party who has abandoned him or her? The work is divided into three parts: pontifical constitutions of the sixteenth century and other papal acts concerning neophytes; the sovereign pontiffs and the marriages of Jews (1418-1622); and the doctrinal foundations of spiritual power and intervention of the pope regarding any person, especially in the case of *privilegium Petrinum in favorem fidei*.

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The author studies themes related to the exercise of the *potestas judicialis* and to matrimonial cases. The two-volume work starts with an analysis of the extent of civil and ecclesiastical jurisdictions in the Spanish Concordat of 1953; jurisdiction and its *extra-territorium* exercise; procedural nullity; and judicial control of the Church's central government, with emphasis on the teaching of the Second Vatican Council, and the subsequent responsibility of the Church. Part two of the study is devoted to the evaluation of documentary evidence and judicial confession in the proceedings of matrimonial nullity; reform of canonical matrimonial procedure, which studies the competence of the courts of the first instance, the new constitution of tribunals, and the firmness and enforceability of the declarative judgment of nullity of marriage. The work concludes with a very useful section devoted to pastoral function and the separation of spouses.

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studying the unity and diversity of the legal powers, the book discusses the problem of administrative justice, and the system of administrative justice compatible with the unity of power in the Church; the peculiarity of administrative justice in the face of administrative activity; and the confrontation of interested parties, a permanent characteristic of the exercise of the judicial function.

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Intended as an introduction to legal canonical practice, with special reference to the responsibility and formation of judges and attorneys, this book comprises many addresses by the author, dean of the Rota, to young people who participate in special exercises to become acquainted with legal practice. It deals with legal procedure in the Church; the responsibilities in legal matters of the bishop, ecclesiastical judge, and attorney; the priestly condition required to become a judge in an ecclesiastical court; spiritual formation and its influence on

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Moreno Hernández, Miguel. *Derecho procesal canónico*. 2. ed. actualizada. Barcelona, Bosch, c1975. 3 v.

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By nature, the Church is a legally perfect society, and therefore endowed with judicial power to enact laws and adopt provisions. This statement is supported by the practice of the Church since its beginnings, i.e., complainants, witnesses, judges, subpoenas, verdicts, and trials in the court of law (*fuero externo*), completely different from the acts of confession (*fuero penitencial*). Through time, the jurisdiction of the ecclesiastical court was greatly reduced; despite this, the Church did establish a magnificent procedural law, formed with elements of German and Roman laws, special statutes of the Church, and traditional and customary provisions. In 1306, Clement V introduced summary procedure for some specific causes. The Council of Trent brought essential transformation into canonical procedure. The Roman Rota gained much prestige based upon its jurisprudence in the eighteenth century; Próspero Lambertini, a great canonist and pope (Benedict XIV), introduced important innovations in canonical procedure concerning marriage and religious profession. Pius X profoundly reformed the Roman Curia; and the code followed in 1917; since then some procedural laws have been published. The author studies, in three volumes (devoted to proceedings, appendixes to proceedings, and jurisprudence), the institutions of canonical procedural law, and analyzes the works by canonists and experts in civil procedure. He also studies the legal nature of canonical procedure and its external form. It can be said, in brief, that this is a complete and valuable treatise on canonical procedure. Each chapter is preceded by a summary and abundant bibliography. The work ends with excellent indexes of authors, subjects, and legislations.

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APPENDIX

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32

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Barbosa, Agostinho. *Tractatus de canonicis et dignitatibus*. Lugduni, Prost, 1648. 2 v. in 1.

This book contains two treatises which were published in 1648 and 1655 (*Pastoralis sollicitudo sive*

de officio et potestate parochi). The first deals with all aspects of the life of the canon (i.e., a clergyman belonging to the chapter of a cathedral or collegiate church) and his duties in the choir and in the chapter. The second treatise, divided into three parts, covers the appointment and obligations of the parish priest, the administration of sacraments as one of the great responsibilities of the pastor, and the rights of the parish priest. Both expositions conclude with comprehensive indexes of terms and subjects.

34

Barbosa, Agostinho. *Tractatus de canonicis et dignitatibus*. Lugduni, Arnaud, 1679. 2 v. in 1.

35

Barbosa, Agostinho. *Tractatus varii: quorum I. De axiomatibus iuris vsufrequentioribus. II. De appellatiua verborum utriusque iuris significatione. III. De locis communibus argumentorum iuris. IV. De clausulis vsufrequentioribus. V. De dictionibus vsufrequentioribus. Circa iudiciorum, contractuum, ultimarum voluntatum, & delictorum cognitionem. Nunc recens recogniti, & praeter illa, quae passim obiter intertexta, multis cascae Rotae decisionibus, & quamplurium doctorum . . . resolutionibus illustrati . . . Accesserunt summa rerum, & indices. Lvgdvni, sumpt. Ph. Borde, L. Arnavd, & C. Rigavd, 1660. 818 p.*

Barbosa examines several meaningful topics: the most used axioms in law; the appellative significations of terms in both civil and canon law; *de locis communibus*, or the common places of arguments of law; the most used clauses; and dictions. The knowledge of these subjects, according to the author, is useful and necessary when studying and debating matters related to trials, contracts, wills, and crimes. The work ends with a comprehensive index of the most important terms and subjects quoted.

36

Barbosa, Agostinho. *Tractatus varii*. Lugduni, Arnaud, 1678. 684 p.

37

Barbosa, Agostinho. *Tractatus varii: quorum I. De axiomatibus iuris usufrequentioribus. II. De appellativa verborum utriusque iuris significatione. III. De locis communibus argumentorum iuris. IV. De clausulis usufrequentioribus. V. De dictionibus*

usufrequentioribus. Circa iudiciorum, contractuum, ultimarum voluntatum, & delictorum cognitionem, in disputando, & consulendo valde utiles, & necessarij. Nunc recens recogniti, & praeter illa, quae passim obiter intertexta, multis sacrae Rotae decisionibus, & quam recentiorum resolutionibus illustrati. Accesserunt summae rerum & indices. Lugduni, sumpt. P. Borde, J. & P. Arnaud, 1699. 684 p.

38

Barbosa, Agostinho. Tractatus varii: quorum I. De axiomatibus iuris vsu frequentioribus. II. De apelatiua verborum vtriusque iuris significatione. III. De locis communibus argumentorum iuris. IV. De clausulis vsu frequentioribus. V. De dictionibus vsu frequentioribus. Circa iuriciorum, contractuum, ultimarum voluntatum, & delictorum cognitionem, in disputando, & consulendo valde viles, & necessarij. Nunc recens recogniti, & praeter illa, quae passim obiter intertexta, multis Sacrae Rotae decisionibus & quamplurium doctorem (!) tam veterum, quam recentiorum resolutionibus illustrati. Accesserunt summae rerum, & indices. Lvgdvni, sumptibus Ph. Borde, L. Arnavd, & C. Rigavd, 1718. 818 p.

39

Bonnet, Piero. L'essenza del matrimonio canonico: contributo allo studio dell'amore coniugale. Padova, CEDAM, 1976. (Pubblicazioni dell'Istituto di diritto pubblico della Facoltà di giurisprudenza, Università degli studi di Roma; ser. 3, v. 30)

Includes bibliographical references and indexes.

The author affirms that the institution of marriage has always attracted the interest of canonists. After the Second Vatican Council (1962-1965) the solicitude for the doctrine became even livelier, and included harsh criticisms of certain essential aspects of present canonical discipline. In many instances the discussions attacked the essential structure of marriage or the need for its legal institutionalization. It seems, frequently enough, that there is a gap between the reality sanctioned by the laws and the human truth to be disciplined; this reality becomes particularly intolerable in the case of marriage, which engages the human being deeply and totally, because canon law regulates one of his most fundamental and inalienable personal rights.

40

Carrillo Aguilar, Alfonso. Disolución del vínculo y potestad de la Iglesia: (¿puede la Iglesia disolver el matrimonio sacramental consumado?) Córdoba, A. Carrillo, 1976. 323 p.

This work concerns the dissolution of the bond of marriage and the jurisdiction of the Church. The author's theme is that marriage, though a mystery, becomes luminous when enlightened by faith. The work is divided into four parts: juridico-theological accuracy of concepts; divine-human covenant (the author studies the foundation of the indissolubility of marriage as well as the possibility of dissolution in some instances); the question of dissolving a consummated sacramental marriage or finding a motive for the dissolution; and the nature and dimension of the jurisdiction of the Church concerning the dissolution of marriage.

41

Catholic Church. *Congregatio pro ecclesia orientali*. Codificazione canonica orientale: fonti. [Roma] Tipografia poliglotta vaticana, 1931-

"Bibliographia": v. 11, p. [xiii]

Acta Romanorum Pontificum a Clemente I ad Coelestinum III (fontes) Series III, v. 1 and 2.

These sources of Oriental canon law, which contain the acts of the popes from approximately A.D. 90 to A.D. 1198 (from Clement I to Celestin III), assume great importance because of the authorities who issued them, and the subjects treated. These writings by the Roman pontiffs, embracing the first twelve centuries, serve to illustrate the memory of the Church with its canon law, and to illuminate part of the history of the European kingdoms. It is worth noting the helpful role the introduction plays in providing a historical synopsis of the popes to familiarize the reader with the basic facts of the period under consideration.

41a

Catholic Church. *Congregatio pro ecclesia orientali*. Codificazione canonica orientale: fonti. [Roma] Tipografia poliglotta vaticana, 1931-

"Bibliographia": v. 11, p. [xiii]

Testi vari di diritto nuovo (1550-1902) Fascic. I, parts 1 and 2.

In 1929, Pope Pius XI created a commission of cardinals to study the preparation of a complete

and updated Oriental code, a task accomplished only partially in the previous centuries privately or by mandate of his papal predecessors. As a result of his action, two special committees were established: one to research and collect the sources of Oriental law; the other to study them for the preparation of the code. Among the innumerable documents they collected were those of ecumenical councils, constitutions and decisions of the pontiffs and Roman congregations, specific synods, canonical provisions of different origin, and customs. The oriental canonical codification reproduces here this very valuable and necessary legal material.

42

Fagnani, Prospero. *Commentaria in quinque libros decretalium*. Romae, Expensis I. Casoni, 1661. 4 v.

Index

43

Fagnani, Prospero. *Commentaria in primam (quintam) parte Decretalium*. Romae, Expensis I. Casoni, 1661. 5 v., 1 v. index.

44

Fagnani, Prospero. *Commentaria in primum [in quintum] librum decretalium*. Venetiis, Apud Paulum Balleonium, 1697. 5 v. in 3. [v. 3, 1696]

The reader interested in the history of canon law will find a great deal of help in this truly comprehensive three-volume commentary on the five books of the Decretals. Volume one is devoted entirely to the first book, which is preceded by a helpful subject index, covering such theological matters as the Holy Trinity and the Catholic faith, ecclesiastical legislations, and secular occupations. Volume two analyzes books two and three of the Decretals related to trials, the sacraments, the status of the clergy and some irregularities, ecclesiastical property, etc. Volume three contains a short commentary on the fourth book, related to marriage and divorce; and a more extensive analysis of book five, concerning inquisition, heresy, apostasy, homicide, Jewish people, excommunication, privileges, etc. Every chapter throughout the treatise is preceded by a detailed summary of the issues studied. Volume three also offers an extensive and most helpful index of terminology and subjects.

45

Fagnani, Prospero. *Jus canonicum sive commentaria absolutissima in V. libros decretales . . . Tomus primus complectens primam partem primi libri decretalium [in secundam partem quintilibri decretali]*. Coloniae Agrippinae, Apud I. W. Friessen juniorem, Anno 1676. 5 v. in 3.

46

Fagnani, Prospero. *Jus canonicum: sive commentaria absolutissima in V. libros Decretales, cum indice*. Coloniae Agrippinae, Haeredes I. Widenfelt, 1681. 2 v. in 1.

47

Fagnani, Prospero. *Tractatus ex Commentariis Prosperi Fagnani Super Decretalibus Seorsum recusus. De opinione Probabili*. Romae, Sumptibus J. Casoni, 1665.

48

Fornés, Juan. *La noción de "status" en derecho canónico*. Pamplona, Ediciones Universidad de Navarra, 1975. 349 p. (Colección canónica de la Universidad de Navarra)

Bibliography: p. 335-349.

The author starts by pointing out that in canonical literature *status* embraces a diversity of meanings: a general one (without legal significance in itself); and more specific ones, related to the legal condition of the person by reason of his situation in the community or of his personal circumstances. This work tries to find the limits of, and establish a system for, the nuances of the many concepts of *status* used in canon law, searching for the predominant significance, i.e., for that which has more influence in the way of conceiving the arrangement or social structure of the Church. It studies the provisions adopted in the constitution *Lumen Gentium* at Vatican II and the contribution of the subsequent canonical doctrine to establish the present meaning of *status*. The work reviews the doctrines which throughout history have treated the issue explicitly or indirectly. The author clarifies that this is not a historical monograph in the proper sense (as the historical references in the book could mislead someone), but a strictly legal work on the notion of *status* in canon law. Historical data are offered only to place the ideas of the authors in the proper context.

49

Kelly, William, S. J. Pope Gregory II on divorce and remarriage: a canonical-historical investigation of the letter *Desiderabilem mihi*, with special reference to the response *Quod proposuisti*. Roma, Università Gregoriana, 1976. 333 p. (*Analecta Gregoriana*; v. 203: *Sectio Facultatis Iuris Canonici*; *Sectio B*, no. 37)

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The subtitle explains the extent of this work: a canonical-historical investigation of the letter *Desiderabilem mihi*, with special reference to the response *Quod proposuisti*. In the letter written by Pope Gregory to St. Boniface in A.D. 726 a paragraph is found which is studied by Kelly. This paragraph became a source of confrontation and polemics for it apparently allows divorce and remarriage in a particular case. In part one research is focused on the eighth century: the letter, the paragraph, Pope Gregory II, and St. Boniface; part two is devoted to the interpretation of the text through the centuries, with special reference to Gratian; and part three proposes a critical evaluation.

50

Lex Ecclesiae: Estudios en honor del Dr. Marcelino Cabrereros de Anta. Salamanca, Universidad Pontificia, 1972. 694 p. (*Biblioteca Salmanticensis*, 1. *Studia*, 1.)

Includes bibliographical references.

This book contains several studies on ecclesiastical legislation written by respected Spanish canonists. It opens with a general part covering real humanism and integral humanism; peculiar characteristics of certainty in the juridico-canonical regulation; and the right to initiatives. Another section is devoted to historical studies. The third part deals with constitutional law of the Church: sacramentality and legality; the origin of the Episcopal College (Is it an ecclesiastical institution or of divine origin?); and the new diocesan curia. The fourth part contains research on marriage law, especially as it relates to today's problems, and it is considered in ecumenical perspective. The following section is devoted to procedural law, such as Vatican II and the problems of ecclesiastical justice. Part six contains ecclesiastical public law: concordats; religious freedom and equality; and ecclesiastical patrimony in the legislation on con-

cordats by John XXIII and Paul VI. A section entitled "Varia" concludes the series of studies in the book.

51

Luca, Giovanni B. de. *Il dottor volgare, ovvero Il compendio di tutta la legge civile, canonica, feudale, e municipale . . . moralizzato in lingua italiana per istruzione e comodità maggiore di questa prouincia*. Roma, Stamperia di G. Corvo, 1673. 15 v. in 10.

52

Luca, Giovanni B. de. *Il dottor volgare; ovvero, Il compendio di tutta la legge civile, canonica, feudale e municipale, nelle cose più ricevute in pratica del cardinale Giambatista de-Luca e dal medesimo moralizzato in lingua italiana*. Firenze, Coi tipi di V. Batelli, 1839–43. 4 v.

53

Luca, Giovanni B. de. *S. Rotae Romanae Decisiones Et Sum. Pontificum Constitutiones Recentissime Et Selectissime, Theatrum Veritatis Et Justitiae Eminentissime D. Cardinalis De Luca Eiusque Tractatus De Officiis Venal. Et Stat. Successionibus Amplectentes, confirmantes, laudantes, etc. Studio & opera Clariss. J. U. D. Argumentis, Summariis & Indicibus necessariis exornata & juxta Titulorum seriem & Discursum ordinem dispositae. Coloniae Allobrogorum. Sumptibus J. A. Cramer & P. Perachun, 1700. 9 v. in 1.*

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Luca, Giovanni, B. de. *Sacrae Rotae romanae Decisiones, et cummorum pontificum constitutiones recentissimae, Theatrum veritatis & justitiae cardinalis de Luca, ejvsque tractatus De officiis venal. et stat. successionibus amplectentes, confirmantes, & laudantes. Argvmentis, svmmariis, et indicibus necessariis exornatae, ac juxta titulorum seriem & discursuum ordinem dispositae. Venetiis, apud P. Balleonium, 1707–08. 4 v.*

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56

Luca, Giovanni B. de. *Treatrum Veritatis, et Jus-*

titiae sive Decisivi Discursus. Liber III. De Jurisdictione et Foro Competenti. Pars II De Praeminentiis et Praecedentiis. Romae, Typis Haeredum Corbeletti, 1669.

57

Luca, Giovanni B. de. *Theatrum veritatis & justitiae, sive Decisivi discursus per materias, seu titulos distincti, & ad veritatem editi in forensibus controversiis canonicis & civilibus, in quibus in urbe advocatus pro una partium scripsit, vel consultus respondit. Venetiis, apud P. Balleonium, 1706. 15 v. in 6.* — *Repertorium, seu Index generalis rerum notabilitum . . . a Nicolao Falconio . . . elaboratum: Accedit in fine . . . Index decisionum, constitutionum, ac allegationum additarum in hac veneta impressione. Venetiis, apud Balleonium, 1706. 623 p.*

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distincti, et ad veritatem editi in forensibus controversiis Canonicis et Civilibus, in quibus in Urbe Advocatus, pro una partium scripsit, vel consultus respondit. Tractatus de Officiis venalibus vacabilibus Romanae Curiae. Neapoli, Ex Typographia Laurentii, 1758. 18 v. in 13.

This treatise contains various topics discussed in ecclesiastical and civil courts by the author in his capacity as attorney and consultant. The work covers eighteen books dealing with feoffment, obligations towards the princes or the republic; jurisdiction and competent forum; usufruct and leasing of land; usury and interest with dowry; donations, sale and acquisitions, contracts; loans; and wills and heirs. It also discusses trusts, successions; ecclesiastical benefices, in general and specifically as they affect canons, dignitaries, pastors and parishes; and patronage and ecclesiastical pensions. Book fourteen is divided into five parts and studies the condition and situation of monks and religious persons; marriage, betrothal and divorce; alms and contributions; ecclesiastical immunity; and practical annotations on the Council of Trent, in matters related to reformation and forensics. Book fifteen is devoted to trials, the role of the Roman Curia in legal matters, and to legal propositions which seem to be in conflict with reason. Book sixteen offers a general index of the *Theatrum*. The last two books deal with documents related to the College of the Apostolic Secretaries, and commentaries on a constitution by Innocence XI.

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